



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2019-0526; FRL-8962-01-OCSP]

Spinetoram; Pesticide Tolerances; Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correcting amendment.

SUMMARY: EPA issued a final rule in the *Federal Register* of April 7, 2021, establishing tolerances for residues of the insecticide spinetoram in or on multiple commodities requested by the Interregional Research Project Number 4 (IR-4) under the Federal Food, Drug, and Cosmetic Act (FFDCA). That document inadvertently instructed the *Federal Register* to add a tolerance for “vegetable, leafy, except *Brassica*, group 4” and to remove a tolerance for “vegetable, leafy, group 4-16”. This document corrects the final regulation.

DATES: Effective on [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2019-0526, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave., NW., Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805.

Due to the public health emergency, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Marietta Echeverria, Acting Director, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington DC 20460-0001; main telephone number: (703) 305-7090; email address: *RDFRNotices@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

The Agency included in the April 7, 2021 final rule a list of those who may be potentially affected by this action.

II. What Do These Corrections Do?

EPA issued a final rule in the *Federal Register* of April 7, 2021 (86 FR 17907) (FRL-10020-24) that established tolerances for residues of spinetoram in or on multiple commodities and removed some tolerances in response to a petition filed by IR-4. EPA inadvertently reversed the instructions to the *Federal Register* regarding the entries for “vegetable, leafy, except *Brassica*, group 4” and “vegetable, leafy, group 4-16” in the tolerance table in paragraph (a) of 40 CFR 180.635. The instructions inadvertently directed the *Federal Register* to add an entry in the table for “vegetable, leafy, except *Brassica*, group 4”. The instructions should have directed the *Federal Register* to remove that entry from the table, as described in Unit V. of the April 7, 2021 final rule and as reflected in the amended table in the regulatory text of the final rule. Additionally, the instructions inadvertently directed the *Federal Register* to remove the entry in the table for “vegetable, leafy, group 4-16”. The instructions should have directed the *Federal Register* to add that entry to the table, as described in Unit V. of the April 7, 2021 final rule and as reflected in the amended table in the regulatory text of the final rule.

EPA’s instructions in the April 7, 2021 final rule regarding tolerances for “vegetable, leafy, except *Brassica*, group 4” and “vegetable, leafy, group 4-16” were not consistent with its authority under FFDCA section 408(d)(4)(A) or with the preamble or regulatory text of the April

7, 2021 final rule. Therefore, EPA is rescinding those instructions and directing the *Federal Register* to remove the entry for “vegetable, leafy, except *Brassica*, group 4” and add an entry for “vegetable, leafy, group 4-16” in the tolerance table in paragraph (a) of 40 CFR 180.635.

III. Why Are These Corrections Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(B)) provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making these correcting amendments final without prior proposal and opportunity for comment, because EPA inadvertently reversed the instructions to the *Federal Register* so that the new tolerance for “vegetable, leafy, group 4-16” was not established and the existing tolerance for “vegetable, leafy, except *Brassica*, group 4” was not removed. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

IV. Do Any of the Statutory and Executive Order Reviews Apply to this Action?

No. For a detailed discussion concerning the statutory and Executive order review refer to Unit VI. of the April 7, 2021 final rule.

V. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 13, 2021.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA corrects 40 CFR part 180 by making the following correcting amendments:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

2. In § 180.635, amend Table 1 to Paragraph (a) as follows:

a. Remove the entry for “Vegetable, leafy, except *Brassica*, group 4”; and

b. Add alphabetically an entry for “Vegetable, leafy, group 4-16”.

The addition reads as follows:

§ 180.635 Spinetoram; tolerances for residues.

(a) * * *

Table 1 to Paragraph (a)

Commodity	Parts per million
* * * * *	
Vegetable, leafy, group 4-16	10
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